

SEC resumes processing applications for Swiss investment advisers

On June 10, 2025, the U.S. Securities and Exchange Commission (SEC) announced that it will resume processing applications for Swiss financial institutions seeking to operate as Registered Investment Advisers (RIAs) in the United States. This decision marks a significant shift after years of suspension. It is the result of recent discussions between FINMA and the SEC that aimed at aligning examination procedures with both Swiss and U.S. regulatory frameworks.

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Introduction

Swiss financial institutions that offer advisory and wealth management services and seek to conduct business in the U.S. on a cross-border basis must register with the SEC as registered investment advisers (RIAs), unless an exemption applies. The SEC had suspended the processing of new registration applications from Swiss entities for several years due to a perceived conflict between Swiss and U.S. laws and regulations, mainly regarding the direct transmission of information and on-site examinations. Of particular relevance were Article 271 of the Swiss Criminal Code in connection with Articles 42c and 43 of the Financial Market Supervision Act (FINMASA), as well as the Swiss data protection law. A similar moratorium remains in place for entities in other jurisdictions, while it had already been lifted for U.K.-based advisers back in September 2020.

On 22 December 2020, the Swiss Federal Data Protection and Information Commissioner (FDPIC)



was contacted by the SEC, which sought clarity on whether Swiss data protection law permits the cross-border transfer of personal data to the SEC during an examination process. The FDPIC issued a report on 31 May 2021 with guidance and a positive conclusion. However, the regulatory deadlock persisted despite this clarification.

On June 10, 2025, following protracted discussions surrounding the on-site examination of a number of Swiss-based RIAs, the SEC and FINMA reached an agreement clarifying the modalities for such examinations. As a result, the SEC has resumed processing applications from Swiss financial institutions. Swiss entities may now again seek registration as RIAs in the United States.

Key modalities

The agreement between FINMA and the SEC addresses two principal areas of concern, namely the direct transmission of information and on-site examinations.

1. Direct transmission of information: The agreement provides that Swiss financial institutions registered with the SEC as RIAs may as a rule transmit their books and records, including those containing personal data, directly to SEC staff subject to certain requirements. This framework ensures that the SEC can obtain timely access to information required for its regulatory oversight, while also complying with Swiss data protection rules and regulatory requirements. International administrative assistance remains available in situations where a direct transmission is not possible.

2. On-site examinations: The agreement also permits the SEC to conduct on-site examinations of Swiss RIAs, subject to defined parameters and in coordination with FINMA. This development significantly enhances the SEC's ability to assess compliance with U.S. securities law through in-person inspections carried out in Switzerland.

Practical implications

For Swiss asset managers considering developing cross-border businesses in the U.S and existing Swiss-based RIAs, this is a key development. They may now apply or resume their application to register with the SEC as investment adviser and thereby provide investment advisory services to US based clients.

Swiss applicants who have already submitted a Form ADV to the SEC are being contacted or will be contacted to update their filings and continue with the registration process. In parallel, FINMA will need to approve the extension to the geographical scope of activities and the related cross-border implications.

Registration with the SEC requires compliance with U.S. regulatory requirements, including, those related to fiduciary duties, disclosure obligations, and record-keeping. In addition, in view of the modalities of the examination, SEC-registered RIAs should prepare for potential SEC inspections by ensuring their internal controls, risk management processes, and compliance programs are in line with applicable U.S. standards.

Please do not hesitate to contact us in case of any questions.

Legal Note: The information contained in this Smart Insight is of general nature and does not



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